

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1042/2006 SINGLE BENCH

PETITIONERS

1. Gram Panchayat - Jabga,
through its Sarpanch,
Bhaktu Ram Rathia, aged
about 35 years, son of Shri
Arjun Singh Rathia, Tah.
Dharamjaigarh, District
Raigarh (C.G.)
2. Gulab Ram Patel, aged about
23 years, son of Padam
Kumar Patel, Panchayat
Karmi, Gram Panchayat
Jabga, Tah. Dharamjaigarh,
Distt Raigarh (C.G.)

RESPONDENTS

1. State of Chhattisgarh,
through - its Secretary,
Department of Village
Panchayat and Rural
Development D.K.S. Bhawan
Raipur (C.G.).
2. The Director (Panchayat)
State of Chhattisgarh,
Raipur. C.G.
3. Deputy Director, Deptt of
Panchayat and Rural
Development, Raigarh (CG)

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4. Sub Divisional Officer (Rev)
Dharamjaigarh, Distt.
Raigarh (C.G.)
5. Chief Executive Officer,
Janpad Panchayat -
Dharamjaigarh, District
Raigarh (C.G.)
6. Simon Ekka, Ex-Panchayat
Karmi (Sachiv), Gram
Panchayat Jabga, presently
resided at - village Jabga,
Janpad Panchayat
Dharamjaigarh, Tahsi.
Dharamjaigarh, Distt.
Raigarh (CG), permanent
resident of village Turgaama,
Tah. Patthalgaon Distt.
Jashpur (C.G.)



**WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA,**

The Petitioner respectfully submits as under:-

आदेश पत्रक

मामला क्रमांक WP 1042/06 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	9-5-2006 Mr. A.N. Bhakta, counsel for the petitioners. Mr. Sanjay Ku. Agrawal, P.L., for the State/respondents No.1 to 5. Heard both the counsel. I.A.No.3249/2006 is allowed. Additional documents are taken on record. No reply has been filed on behalf of the State/respondents No.1 to 5, in spite of giving opportunity to them. By the instant writ petition under Article 226/227 of the Constitution of India, the petitioners have questioned legality, propriety and correctness of the order dated 14-12-2005 (Annexure P-1) passed by the Director, Panchayat, Chhattisgarh, Raipur. The main grievance of the petitioners in this writ petition is that respondent No.6 moved an appeal before respondent No.2 against his removal and respondent No.2 passed the order impugned Annexure P-1 without hearing the Disciplinary Authority. Rule 15 (4) of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999, provides that if any appeal is preferred against the order of the Disciplinary Authority, copy of the memo of appeal should be immediately sent to the Disciplinary Authority, and the same was not done in the present case. Therefore, order Annexure P-1 is liable to be set aside. Rule 15 (4) of the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999, envisages that "a copy of appeal shall also be send to the disciplinary authority, against whose order appeal is preferred". But, perusal of the impugned order of the Director shows that even the Deputy Director, Panchayat,	

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	who passed the order against which appeal was filed, was not arrayed as party respondent, even respondent No.6 was the employee of Gram Panchayat: Jabga and action was taken against respondent No.6 on the recommendation of the Chief Executive Officer, Janpad Panchayat: Dharamjaigarh, who was not made party before the Director, Panchayat. Therefore, the Director, Panchayat, passed the impugned order without hearing the Deputy Director, the Disciplinary Authority, as also the Chief Executive Officer, Janpad Panchayat: Dharamjaigarh. Before passing the impugned order, the Director ought to have asked respondent No.6 to array the Chief Executive Officer, Janpad Panchayat: Dharamjaigarh as well as the Deputy Director, Panchayat, as party, and after giving notices and opportunity of hearing to them, learned Director, Panchayat, ought to have decided the appeal, which was not done in this case. In the circumstances, the order impugned is prima facie perverse, illegal and contrary to the Rules, 1999, and on this ground it is liable to be set aside. Since the order impugned is prima facie perverse, it is not necessary to issue notice to respondent No.6, at this stage. Accordingly, the writ petition is allowed and the order impugned dated 14-12-2005 (Annexure P-1) passed by the Director, Panchayat, Raipur, is quashed. The Director, Panchayat, is directed to restore the appeal filed by respondent No.6 on its original number and after issuing notices to the Deputy Director, Panchayat & the Chief Executive Officer, Janpad Panchayat: Dharamjaigarh, and after hearing respondent No.6 (Simon Ekka), the appellant therein; the Chief Executive Officer, Janpad Panchayat:	

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	Dharamjaigarh and the Deputy Director, Panchayat, to dispose of the appeal, in accordance with law. It is made clear that this order is being passed without issuing notice to respondent No.6 Simon Ekka, if he is not satisfied with this order, then he will be at liberty to move an application for recalling of this order. In view of this order, M.(W.)P.No.811/2006 and I.A.No.2542/2006 stand disposed of. Parties are entitled for certified copy of this order.	
		Sd/- L.C. Bhadoo Judge

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